

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

THE UNITED STATES OF AMERICA,

Plaintiff,

**Criminal Action Number:
7:21-cr-00291-KMK**

vs.

SAMUEL TURNER,

Defendant.

DEFENDANT SENTENCING MEMORANDUM

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We represent the defendant, Samuel Turner in the above-referenced case. He is scheduled for sentencing on November 12th, 2021, pursuant to his guilty plea.

OBJECTION TO CRIMINAL HISTORY POINTS

We challenge the imposition of the three (3) points added to Samuel's criminal history for his arrest that occurred when he was seventeen (17) years old on August 24th, 2000. Samuel pled guilty to Criminal Possession of a Weapon in the Third Degree in Dutchess County on December 20th, 2000. He was sentenced to five (5) years incarceration. (Certificate of Disposition, see Exhibit D). Although he was sentenced to five (5) years (with no supervised release, he was arrested on a parole violation on 6/7/2007). Samuel was re-paroled on May 9th, 2008 and discharged from Parole on September 17th, 2008. Samuel advised us while in jail on the Violation of Parole, he received a letter from the Court and NYS Parole that he was never on Parole and that he would be released immediately.

The sentencing Judge, the Honorable Dolan, the State attorney and attorney Mr. Kenneth Roden, are retired. Thus, neither is available to corroborate this information. However, after a diligent search, we were able to retrieve the attached documents (Exhibit E). These documents were obtained from the Court Clerk of Dutchess County. They corroborate Samuel's information. Unfortunately, the clerk refused to send us a copy of the letter from Judge Dolan or New York State Parole. However, she did verify that Judge Dolan issued an Order for Samuel to be released forthwith. Samuel's sentence expired well before 2007. The erroneous violation of parole and subsequent incarceration did not tolled the fifteen (15) years regarding his criminal history. The three (3) points for this arrested should be removed. His criminal history points should be 7 and his criminal category should be IV.

SENTENCING

The challenge of the Court is to mete out a sentence that is sufficient but not greater than necessary. It is our considered view that a non-guideline sentence of twenty-four (24) months

incarceration on the instant offense followed by six (6) months incarceration for the Violation of Supervised Release satisfies the sentencing mandates here.

DISCUSSION

Samuel Turner is 38 years old. Unfortunately, he is no stranger to the criminal justice system. In fact, his first brush with the law dates back to when he was seventeen (17) years old. Samuel dropped out of school in the ninth (9) grade. He was classified as a special needs student. Samuel has no saleable skills, and at best, a marginal work history. He started smoking marijuana when he was thirteen (13) years old. He has also used PCP and Ecstasy.

Samuel was arrested here while on Supervised Release. Although he had several violations while on Supervised Release, we note that he also had a number of favorable outcomes. He ultimately attended and completed a Court mandated drug program. As a result, he has been drug free for well over a year. Samuel also completed a Court ordered mental health program. Lastly at the time of his arrest, he was gainfully employed.

Unfortunately, thus far Samuel's life has played out consistent with his socio-economic background. Given his lack of education, substance abuse and community influence, Samuel has often found himself entangled with the criminal justice system. Aside from being involved in toxic relationships, he has consistently made poor decisions. His primary issues have been, narcotics, domestic violence and weapon possession. His rap sheet clearly bears this out.

As mentioned previously, to his credit Samuel has been drug free for well over a year. He is keenly aware that he needs continued support in fighting his addiction. Samuel has secured the services and assistance of Phoenix House for in-patient drug treatment upon his release (See Exhibit A). He has received a bed. He has taken additional steps to help him address other issues that have been problematic in his life. While incarcerated here, Samuel sought the assistance of a program to help him appreciate how violence is learned. More significantly, he wants to learn how to curb and stop his violent tendencies. In June 2021, Samuel enrolled and completed the Solutions/Resolve to Stop the Violence Project sponsored by the St. John's Riverside Hospital

Behavioral Health Services (See Exhibit B). He enrolled on June 30th, 2021 and was issued a Certificate of Completion on September 22nd, 2021 (See Exhibit C). He was required to attend the program for a minimum of eight (8) weeks.

Samuel is serious about understanding his issues and effectively trying to address them. He wants better for himself. He understands that if he does not eradicate his issues, he will be back before the Court in short order. Samuel is determined to move forward with his life in a positive and productive manner. Prior to his arrest here, Samuel was employed and drug free. He was proud of his accomplishments. His post arrest conduct amplifies his seriousness and determination. After his arrest, he instructed us to bring the matter to a resolution as expeditiously as possible.

Due to the pandemic, Samuel has been jailed under horrible conditions. Nonetheless, he has not let that deter him. Too, he has not as been cited for any disciplinary infractions. He took inventory of himself and concluded that he must address his anger and violence tendentious issues. We note that it was he who took the initiative and sought out the program referenced earlier. It is significant that he enrolled and completed the St. John's program.

Since his arrest, Samuel has shown growth and determination. He immediately accepted responsibility for his conduct. He came to the realization that he has issues that he needed help to effectively address. He identified help and availed himself to their services.

Samuel is tired of going in and out of jail. He enjoyed being employed and being drug free. He looks forward to enjoying that life again. However, this time, he is getting himself the necessary help to prevent any derailment.

We urge Your Honor to show him mercy as he tries to reset his life.

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